

CHELSEA DALTON,
 Plaintiff,
 v.
 RENAL CARE GROUP, INC.,
 Defendant.

No. 16-cv-01969

Also before the Court is the Modified Report and Recommendation filed by the Magistrate Judge on November 29, 2016. (ECF No. 30.) In the Report and Recommendation, the Magistrate Judge recommends that Plaintiff be allowed until January 13, 2017 to pay the filing fee and the Marshals Service fee. (Id. at PageID 96.)

I. LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure 72(b)(2), when a magistrate judge issues a dispositive order, "[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P.

72(b)(2). "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."

Fed. R. Civ. P. 72(b) advisory committee notes. "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3).

II. ANALYSIS

On November 28, 2016, Plaintiff filed a "Motion for Extension of Time and/or to Alter or Amend Order to Remit Filing Fee and Marshall's [sic] Service Fee." (ECF No. 29.) In the Motion, Plaintiff requested an extension of time to remit the filing fee and reimburse the United States Marshals Service the cost of the service of process. (ECF No. 29 at PageID 94.) Defendant did not respond to Plaintiff's Motion.

The Magistrate Judge considered Plaintiff's motion as a "motion to amend [the] report and recommendation," granted the motion, and issued a Modified Report and Recommendation. (ECF No. 30 at PageID 96.)

The Court construes Plaintiff's November 28, 2016 "Motion for Extension of Time and/or to Alter or Amend Order to Remit Filing Fee and Marshall's [sic] Service Fee" (ECF No. 29) as an objection to the portion of the Report and Recommendation regarding the time allowed to remit the filing fee and reimburse the Marshals Service the cost of the service of process. Plaintiff's motion was granted and the objected-to portion of the Report and Recommendation was amended in the Modified Report and Recommendation. Therefore, Plaintiff's only objection to the Report and Recommendation has been addressed. No objections to the Modified Report and Recommendation have been filed, and the time for filing objections expired on December 13, 2016. See Fed. R. Civ. P. 5(b)(2), 6(d), 72(b)(2).

The Court therefore reviews the remaining portion of the Report and Recommendation and the Modified Report and Recommendation using clear-error review. On clear-error review, the Court hereby ADOPTS the Report and Recommendation (ECF No. 28) in part, excluding the portion of the Report and Recommendation regarding the time the Court allowed Plaintiff to remit the filing fee and reimburse the Marshals Service the cost

of the service of process. The Court ADOPTS the Modified Report and Recommendation (ECF No. 30) in its entirety.

Accordingly, pursuant to the Report and Recommendation (ECF No. 28) and the Modified Report and Recommendation (ECF No. 30), Defendant's Motion to Dismiss (ECF No. 17) is DENIED. Pursuant to the Modified Report and Recommendation (ECF No. 30), Plaintiff is allowed until January 13, 2017 to pay the filing fee and the Marshals Service fee.

IT IS SO ORDERED, this 14th day of December, 2016.

/s/ Jon P. McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE